

Department of Justice

§ 68.4

have the effect of providing expedited service;

Party includes all persons or entities named or admitted as a complainant, respondent, or intervenor in a proceeding; or any person filing a charge with the Special Counsel under section 274B of the INA, resulting in the filing of a complaint, concerning an unfair immigration-related employment practice;

Pleading means the complaint, motions, the answer thereto, any supplement or amendment thereto, and reply that may be permitted to any answer, supplement, or amendment submitted to the Administrative Law Judge or, when no judge is assigned, the Chief Administrative Hearing Officer;

Prohibition of indemnity bond cases means cases involving allegations under section 274A(g) of the INA;

Respondent means a party to an adjudicatory proceeding, other than a complainant, against whom findings may be made or who may be required to provide relief or take remedial action;

Special Counsel means the Special Counsel for Unfair Immigration-Related Employment Practices appointed by the President under section 274B of the INA, or his or her designee or in the case of a vacancy in the Office of Special Counsel, the officer or employee designated by the President who shall act as Special Counsel during such vacancy;

Unfair immigration-related employment practice cases means cases involving allegations under section 274B of the INA;

Unlawful employment cases means cases involving allegations under section 274A of the INA, other than prohibition of indemnity bond cases.

[Order No. 2203-99, 64 FR 7073, Feb. 12, 1999, as amended by Order No. 2255-99, 64 FR 49660, Sept. 14, 1999]

§ 68.3 Service of complaint, notice of hearing, written orders, and decisions.

(a) Service of complaint, notice of hearing, written orders, and decisions shall be made by the Office of the Chief Administrative Hearing Officer or the Administrative Law Judge to whom the case is assigned either:

(1) By delivering a copy to the individual party, partner of a party, officer of a corporate party, registered agent for service of process of a corporate party, or attorney or representative of record of a party;

(2) By leaving a copy at the principal office, place of business, or residence of a party; or

(3) By mailing to the last known address of such individual, partner, officer, or attorney or representative of record.

(b) Service of complaint and notice of hearing is complete upon receipt by addressee.

(c) In circumstances where the Office of the Chief Administrative Hearing Officer or the Administrative Law Judge encounters difficulty with perfecting service, the Chief Administrative Hearing Officer or the Administrative Law Judge may direct that a party execute service of process.

[Order No. 2203-99, 64 FR 7074, Feb. 12, 1999]

§ 68.4 Complaints regarding unfair immigration-related employment practices.

(a) *Generally.* An individual must file a charge with the Special Counsel within one hundred and eighty (180) days of the date of the alleged unfair immigration-related employment practice.

(b) The Special Counsel shall, within one hundred and twenty (120) days of the date of receipt of the charge:

(1) Determine whether there is a reasonable cause to believe the charge is true and whether to bring a complaint respecting the charge with the Chief Administrative Hearing Officer within the 120-day period; or,

(2) Notify the party within the 120-day period that the Special Counsel will not file a complaint with the Chief Administrative Hearing Officer within the 120-day period.

(c) The charging individual may file a complaint directly with the Chief Administrative Hearing Officer within ninety (90) days after the date of receipt of notice that the Special Counsel will not be filing a complaint within the 120-day period. However, the Special Counsel's failure to file a complaint within the 120-day period will not affect the right of the Special